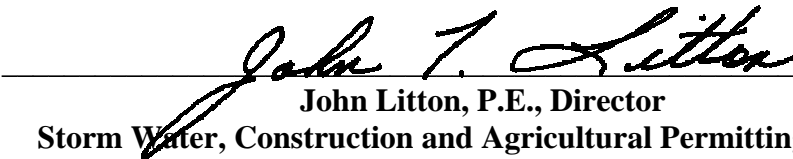




**STATE OF SOUTH CAROLINA
NPDES GENERAL PERMIT
FOR
STORM WATER DISCHARGES
FROM
REGULATED SMALL MUNICIPAL
SEPARATE STORM SEWER SYSTEMS (MS4s)**

The Permit is issued in compliance with the provisions of the SC Pollution Control Act (S.C. Code Sections 48-1-10 *et seq.*, 1976) and with the provisions of the Clean Water Act, 33 U.S.C. §1251 *et. seq.*, (hereafter CWA or the Act), as amended by the Water Quality Act of 1987, P.L. 100-4. Upon being granted coverage under this general permit, operators of Regulated Small Municipal Separate Storm Sewer Systems that are described in Subpart 1.2 of this National Pollutant Discharge Elimination System (NPDES) general permit, except for those activities excluded from authorization of discharge in Subpart 1.3 of this permit, are authorized to discharge storm water to waters of the state of South Carolina in accordance with the conditions and requirements set forth herein.



John Litton, P.E., Director
Storm Water, Construction and Agricultural Permitting Division
Bureau of Water

Permit No.: SCS00000000

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1 Coverage Under this Permit

1.1 Permit Area

This permit covers all areas of the State of South Carolina including the Catawba Indian Reservation.

1.2 Eligibility

1.2.1 This permit authorizes discharges of storm water from SMS4s as defined in South Carolina Water Pollution Control Permits Regulation 61-9 122.26(b)(16). You are eligible to be authorized to discharge under the terms and conditions of this general permit if you:

1.2.1.1 Own or operate an SMS4 within the permit area described in Section 1.1,

1.2.1.2 Are not a “large” or “medium” MS4 as defined in South Carolina Water Pollution Control Permits Regulation 61-9 122.26(b)(4) or (7), and

1.2.1.3 Submit either a Notice of Intent (NOI) in accordance with Part 2 of this permit or an individual application in accordance with Section 122.33(b)(2) or (3) of SC Regulation 61-9, and

1.2.1.3.1 Are located fully or partially within an urbanized area as determined by the latest Decennial Census by the Bureau of Census, or

1.2.1.3.2 Are designated for permit authorization by SCDHEC or EPA pursuant to South Carolina Water Pollution Control Permits Regulation 61-9 122.32 and 40 CFR §123.35.

1.2.2 The following are types of authorized discharges:

1.2.2.1 *Storm water discharges.* This permit authorizes storm water discharges to waters of the State or waters of the United States from the SMS4s identified in Section 1.2.1, except as excluded in Section 1.3.

1.2.2.2 *Non-storm water discharges.* You are authorized to discharge the following non-storm water sources provided that the Department has not determined these sources to be substantial contributors of pollutants to your SMS4:

- a) Water line flushing
- b) Landscape irrigation
- c) Diverted stream flows
- d) Rising ground waters
- e) Uncontaminated ground water infiltration (infiltration is defined as water other than wastewater that enters a sewer system, including foundation drains, from the ground through such means as defective pipes, pipe joints, connections, or manholes. Infiltration does not include, and is distinguished from, inflow.)
- f) Uncontaminated pumped ground water
- g) Discharges from potable water sources

- h) Foundation drains
- i) Air conditioning condensate
- j) Irrigation water (not consisting of treated, or untreated, waste water)
- k) Springs
- l) Water from crawl space pumps
- m) Footing drains
- n) Lawn watering
- o) Individual residential car washing
- p) Natural flows from riparian habitats and wetlands
- q) Dechlorinated swimming pool discharges
- r) Street wash water
- s) Discharges or flows from fire fighting activities

1.3 Limitations on Coverage

This permit does not authorize:

- 1.3.1 Discharges that are mixed with sources of non-storm water unless such non-storm water discharges are:
 - a) In compliance with a separate NPDES permit, or
 - b) Determined not to be a substantial contributor of pollutants to waters of the State.
- 1.3.2 Storm water discharges associated with industrial activity as defined in South Carolina Water Pollution Control Permits Regulation 61-9 122.26(b)(14)(i)-(ix) and (xi).
- 1.3.3 Storm water discharges associated with construction activity as defined in South Carolina Water Pollution Control Permits Regulation 61-9 122.26(b)(14)(x) or 122.26(b)(15).
- 1.3.4 Storm water discharges currently covered under another NPDES permit.
- 1.3.5 Discharges to territorial seas, the contiguous zone, and the oceans unless such discharges are in compliance with the ocean discharge criteria of 40 CFR Part 125, Subpart M.
- 1.3.6 New or expanding point source discharges that would cause or contribute to violations of water quality standards unless your SWMP includes a description of the BMPs and implementation procedures that you will be using to reduce the discharge of pollutants from your MS4 to the MEP, to protect water quality, and to satisfy the appropriate water quality requirements of the Clean Water Act. Provisions of 1.5.1 specifically apply to this Subsection as well as the remainder of this permit.
- 1.3.7 Existing discharges that are causing or contributing to a violation of water quality standards are not excluded from coverage under this general permit provided your SWMP includes a description of the BMPs and implementation procedures that you will be using to work towards compliance with water quality standards in accordance with Parts 3 and 4 and Subpart 5.3 of this permit. Provisions of 1.5.1 specifically apply to this Subsection as well as the remainder of this permit.

- 1.3.8 Discharges of any pollutant into any water for which a Total Maximum Daily Load (TMDL) has been established unless your SWMP includes a description of the BMPs and implementation procedures that you will be using to work towards compliance with a TMDL. You must incorporate any limitations, conditions and requirements contained in the TMDL applicable to your discharges if any, including monitoring frequency and reporting required, in order to be eligible for permit coverage. Applicable limitations, conditions and requirements contained in the TMDL are those limitations, conditions and requirements set forth in the TMDL implementation plan and attributed specifically to your MS4. Provisions of 1.5.1 specifically apply to this Subsection as well as the remainder of this permit.

1.4 Obtaining Authorization

- 1.4.1 To be authorized to discharge storm water from SMS4s, you must submit a notice of intent (NOI), as required in South Carolina Water Pollution Control Permits Regulation 61-9 122.33(b)(1) and 122.34 and a description of your SWMP in accordance with the deadlines presented in section 2.1 of this permit.

- 1.4.2 You must submit the information required in section 2.2 of this permit. Your NOI must be signed and dated in accordance with Section 122.22 of SC Regulation 61-9 (see Appendix B of this permit).

Note: If SCDHEC notifies dischargers (either directly, by public notice, or by making information available on the Internet) of other NOI form options that become available at a later date (e.g., electronic submission of forms), you may take advantage of those options to satisfy the NOI use and submittal requirements of part 2.

- 1.4.3 Dischargers who submit an NOI in accordance with the requirements of this permit are authorized to discharge storm water from SMS4s under the terms and conditions of this permit from the effective date indicated in the written certificate of coverage issued by the Department. The Department may deny coverage under this permit and require submittal of an application for an individual NPDES permit based on a review of the NOI or other information at any time (see Section 122.28 of SC Regulation 61-9).
- 1.4.4 For areas annexed into your MS4 area after you received coverage under this general permit, the first annual report submitted after the annexation must include the updates to your SWMP, as appropriate.
- 1.4.5 Small MS4s that submitted or submit an individual permit application may also be granted coverage under this general permit in lieu of SCDHEC issuing an individual MS4 NPDES permit. Provided, however, that if any Small MS4 demonstrates a basis for declining coverage under the general permit, then SCDHEC shall provide individual permit coverage.

1.5 Implementation, Interpretation, and Enforcement

- 1.5.1 Implementation

- 1.5.1.1 This permit requires implementation of the MS4 Program under the State and Federal NPDES Regulations as explained by the EPA in the December 8, 1999 Federal Register. On page 68753 of the Federal Register, the EPA states, “Absent evidence to the contrary, EPA presumes that a small MS4 Program that implements the six minimum measures as outlined in today’s rule does not require more stringent limitations to meet water quality standards.” The EPA further states that “MS4s should modify their programs if and when water quality considerations warrant greater attention or prescriptiveness in specific components of the municipal program.”
- 1.5.1.2 The EPA also states “If a small MS4 operator implements the six minimum measures in Section 122.34(b) and the discharges are determined to cause or contribute to non-attainment of an applicable water quality standard, the operator needs to tailor its BMPs within the scope of the six minimum control measures. EPA envisions that this process will occur during the first two or three permit terms.” The EPA has called this the “Iterative Process.” Parts 3 and 4 and Subpart 5.3 of this permit are part of this “Iterative Process.” This Permit is the first of the “two or three permit terms” EPA refers to in the Federal Register.
- 1.5.1.3 Further, in the Section entitled “Total Maximum Daily Loads and Analysis To Determine the Need for Water Quality-Based Limitations,” the EPA states on page 68790 of the Federal Register that “NPDES permit must include any more stringent limitations when necessary to meet water quality standards. However, even if a regulated small MS4 is subject to water quality based limits, such limits may be in the form of narrative limitations that require implementation of BMPs.” Part 3 of this permit is designed to implement EPA’s expressed intention.
- 1.5.2 Interpretation and Enforcement
- 1.5.2.1 Interpretation and enforcement of the conditions of this permit will be based on:
- a) the Federal Clean Water Act;
 - b) the SC Pollution Control Act;
 - c) SC Regulation 61-9;
 - d) the Preamble to the Federal Phase II Storm water NPDES Regulations contained in the December 8, 1999 Federal Register; and
 - e) all applicable Federal and State court rulings.

2 Notice of Intent Requirements

2.1 Deadlines for Notification

- 2.1.1 If you are an operator of a regulated SMS4, as defined under South Carolina Water Pollution Control Permits Regulation 61-9 122.26(b)(16), designated under 122.32(a)(1), located in the Urbanized Areas (UAs) listed in the Appendix A of this permit, you must apply for coverage under an NPDES permit, or apply for a modification of an existing NPDES permit by March 10, 2003, unless your SMS4 has been specifically exempted by a waiver granted under SC DHEC Water Pollution Control Permits Regulation 61-9 122.32(d) or (e).
- 2.1.2 *Additional designations after the date of permit issuance.* If you are designated by the Department after the date of permit issuance, then you are required to submit an NOI and a description of your SWMP to the Department within 180 days of notice.
- 2.1.3 *Submitting a Late NOI.* You are not prohibited from submitting an NOI after the dates provided in this section. If a late NOI is submitted, your authorization is only for discharges that occur after the written certificate of coverage is granted. The Department reserves the right to take appropriate enforcement actions for any unpermitted discharges.

2.2 Contents of the Notice of Intent

The Notice(s) of Intent must be signed in accordance with Section 122.22 of SC Regulation 61-9 (see Appendix B of this permit) and must include the following information:

2.2.1 Information on the Permittee:

- 2.2.1.1 The name of your municipal entity/tribe/state agency/federal agency, mailing address, and telephone number;
- 2.2.1.2 An indication of whether you are a Federal, State, Tribal, or other public entity;

2.2.2 Information on the SMS4:

- 2.2.2.1 The Urbanized Area or Core Municipality (if you are not located in an Urbanized Area) where your system is located; the name of your organization, county(ies), city(ies), town(s) or parish(es) where your SMS4 is located, and the latitude and longitude of an approximate center of your SMS4. Maps submitted to the Department should not exceed a “D” size, 24 in. by 36 in. and the scale of the maps should be at least 1 inch equals 1,000 feet but not more than 1 inch equals 2,000 feet. Electronic maps, in a format suitable to the Department, may be submitted in lieu of the size D maps.
- 2.2.2.2 The name of the waters of the State and an indication of whether any of your receiving waters are on the latest CWA §303(d) list of impaired waters. If you have discharges to 303(d) waters, a certification that your SWMP procedures are in compliance with Part 3 of this permit must be included.
- 2.2.2.3 An indication of whether all or a portion of the SMS4 is located on Indian Country lands.

- 2.2.2.4 If you are relying on another entity to satisfy one or more of your permit obligations (see Section 4.4), the identity of that entity(ies) and the element(s) they will be implementing.
- 2.2.2.5 Information on your chosen best management practices (BMPs) and the measurable goals for each of the storm water minimum control measures in Section 4.2 of this permit, your time frame for implementing each of the BMPs, and the person or persons responsible for implementing or coordinating your SWMP.
- 2.2.2.6 A list of entities such as military bases, large hospitals, prison complexes, universities, sewer districts, highway departments and others that operate a small separate storm sewer system and are located within your SMS4 area. Indicate whether they are an integral part of your SMS4.

2.3 Where to Submit

You are to submit your NOI, signed in accordance with the signatory requirements of Section 122.22 of SC Regulation 61-9 (see Appendix B of this permit), to the Department at the following address:

SCDHEC Bureau of Water
NPDES Storm Water SMS4 Notice of Intent
2600 Bull Street
Columbia, SC 29201

2.4 Co-Permittees Under a Single NOI

You may partner with other MS4s to develop and implement your SWMP. You may also jointly submit an NOI with one or more SMS4s. Each SMS4 must obtain authorization under this permit by filling out the NOI form required in part 1.4.1 of this permit. The description in the SWMP must clearly indicate which permittees are responsible for implementing each of the control measures.

2.5 Renotification

Upon reissuance of this general permit, permittees already covered by the existing NPDES General Permit for Discharges from Small Municipal Separate Storm Sewer Systems will be granted coverage under the new general permit upon approval of a new NOI submitted to the Department not later than 180 days prior to the expiration date of this permit unless otherwise indicated by the Department. The new NOI must consist of a letter signed in accordance with Section 122.22 of SC Regulation 61-9 and a copy of the most recent “Annual Report” required under Subpart 5.3 including any updates of this Annual Report that are necessary to address new information on your program that is generated between the date of the most recent Annual Report and the date that the NOI is due.

3 Special Conditions

3.1 Discharges to Impaired Water Bodies

- 3.1.1 *Applicability:* You must:

- 3.1.1.1 Determine whether storm water discharges from any part of the SMS4 that is covered under this permit contribute directly or indirectly to an impaired water body that is listed in accordance with Section 303(d) of the CWA. If you have discharges meeting this criterion, you must comply with Section 3.1.2; if you do not, Section 3.1 does not apply to you.
- 3.1.1.2 If you have “303(d)” discharges described above, you must also determine whether a TMDL has been developed by SCDHEC and approved by EPA for the listed water body. If there is no TMDL assigned, you must comply with section 3.1.2. If a TMDL is in effect, or one is assigned after submitting the NOI, you must comply with sections 3.1.2 and 3.1.3.
- 3.1.2 *Water Quality Controls for Discharges to Impaired Water Bodies.* Your SWMP must include a section describing how implementation of your SWMP will provide Reasonable Assurance that discharges will not cause or contribute to violations of water quality standards in Impaired Water Bodies. This discussion must specifically identify measures and BMPs that are designed to collectively control the discharge of the pollutants of concern. Provisions of 1.5.1 specifically apply to this Subsection as well as the remainder of this permit.

For purposes of this Subsection 3.1.2, the following definitions shall apply:

“Impaired Water Bodies” means those water bodies identified by the State of South Carolina under Section 303(d) of the Federal Clean Water Act or under 40 CFR § 130.7.

“Reasonable Assurance” means something that is reasonably likely to occur, given uncertainties; it is not a guarantee that it will occur. It requires an assessment that water quality standards can be met, while acknowledging uncertainty, and includes measures to remove or reduce the uncertainty. In the present context, the iterative process inherent in the MS4 program addresses that uncertainty.

- 3.1.3 *Consistency with Total Maximum Daily Load (TMDL) Allocations.* If a TMDL has been established for any watershed into which you discharge, you must incorporate any limitations, conditions and requirements contained in the TMDL applicable to your discharges, if any, including monitoring frequency and reporting required, in order to be eligible for permit coverage. Applicable limitations, conditions and requirements contained in the TMDL are those limitations, conditions and requirements set forth in the TMDL implementation plan and attributed specifically to your MS4.

4 Storm Water Management Programs (SWMPs)

4.1 Requirements

- 4.1.1 You must develop, implement, and enforce a SWMP designed to reduce the discharge of pollutants from your SMS4 to the maximum extent practicable (MEP), to protect water quality, and to satisfy the appropriate water quality requirements of the Clean Water Act. The SWMP should include management practices; control techniques and system, design, and engineering methods; and such other provisions as the Department determines appropriate for the control of such pollutants. Your SWMP must include the following information for each of the six minimum control measures described in Section 4.2 of this permit:

- 4.1.1.1 The best management practices (BMPs) that you or another entity will implement for each of the storm water minimum control measures;
- 4.1.1.2 The measurable goals for each of the BMPs including, as appropriate, the months and years in which you will undertake required actions, including interim milestones and the frequency of the action; and
- 4.1.1.3 The person or persons responsible for implementing or coordinating the BMPs for your SWMP.
- 4.1.2 In addition to the requirements listed above, you must provide a rationale for how and why you selected each of the BMPs and measurable goals for your SWMP. The information required for such a rationale is given in Section 4.2 for each minimum measure.
- 4.1.3 You must have fully developed your SWMP one year from the effective date of your written certificate of coverage.
- 4.1.4 Except for SMS4s that submit an NOI or individual application after the effective date of this permit, you must have the SWMP fully implemented by the expiration date of this permit. However, the construction and post construction runoff control programs must be implemented in your entire regulated MS4 area within eighteen months of the Effective Date of this permit. (see Sections 4.2.4.3 and 4.2.5.3 of this general permit). For SMS4s that submit an NOI application after the effective date of this general permit, you must include an implementation schedule in your NOI application. The schedule may extend past the expiration date of this general permit such that the implementation of the SWMP will be completed during the next term of this general permit but the schedule cannot exceed five years.

4.2 Minimum Control Measures

The six minimum control measures that must be included in your SWMP are:

4.2.1 Public Education and Outreach on Storm Water Impacts

- 4.2.1.1 *Permit requirement.* You must implement a public education program to distribute educational materials or conduct equivalent outreach activities about the impacts of storm water discharges on water bodies and the steps that the public can take to reduce pollutants in storm water runoff. Additional information can be obtained from the SCDHEC Storm Water Education Clearinghouse Web Site, <http://www.scdhec.net/water/ms4/index.html>.
- 4.2.1.2 *Decision process.* You must document your decision process for the development of a storm water public education and outreach program. Such documentation may be included in your permit application, your SWMP, or your annual report submitted pursuant to Section 5 of this permit. If this information is not included in your permit application, your SWMP, or your annual report submitted pursuant to Section 5 of this permit, you must provide a rationale statement that addresses both your overall public education program and the individual BMPs,

establishes measurable goals, and identifies responsible persons for your program. The rationale statement must include the following information, at a minimum:

- 4.2.1.2.1 How you plan to inform individuals and households about the steps they can take to reduce storm water pollution.
- 4.2.1.2.2 How you plan to inform individuals and groups on how to become involved in the storm water program (with activities such as local stream and beach restoration activities).
- 4.2.1.2.3 Who are the target audiences for your education program who are likely to have significant storm water impacts (including commercial, industrial and institutional entities) and why those target audiences were selected.
- 4.2.1.2.4 What are the target pollutant sources your public education program is designed to address.
- 4.2.1.2.5 What is your outreach strategy, including how you plan to inform the target audiences, the mechanisms and activities (e.g., printed brochures, newspapers, media, workshops, etc.) you will use to reach your target audiences, and how many people do you expect to reach by your outreach strategy over the permit term.
- 4.2.1.2.6 Who is responsible for overall management and implementation of your storm water public education and outreach program and, if different, who is responsible for each of the BMPs identified for this program.
- 4.2.1.2.7 How you will evaluate the success of this minimum measure.

4.2.2 Public Involvement/Participation

- 4.2.2.1 *Permit requirement.* You must at a minimum, comply with State, Tribal, and local public notice requirements when implementing a public involvement/participation program.
- 4.2.2.2 *Decision process.* You must document the program development process and the implementation of a storm water public education and outreach program. Such documentation may be included in your permit application, your SWMP, or your annual report submitted pursuant to Section 5 of this permit. If this information is not included in your permit application, your SWMP, or your annual report submitted pursuant to Section 5 of this permit, you must submit a rationale statement that addresses both your overall public involvement/participation program and the individual BMPs, selection of the measurable goals for each of the BMPs, evaluation of the success of this minimum measure, and responsible persons for your program. The rationale statement must include the following information, at a minimum:
 - 4.2.2.2.1 How you have involved the public in the development and submittal of your storm water management program.
 - 4.2.2.2.2 What is your plan to actively involve the public in the development and implementation of your program.

- 4.2.2.2.3 The target audiences for your public involvement program, including a description of the audiences' demographic characteristics. You are encouraged to actively involve all potentially affected stakeholder groups, including commercial and industrial businesses, trade associations, environmental groups, homeowners associations, and educational organizations, among others.
- 4.2.2.2.4 What are the types of public involvement activities included in your program. Where appropriate, consider the following types of public involvement activities:
- 4.2.2.2.4.1 Citizen representatives on a storm water management panel;
- 4.2.2.2.4.2 Public hearings;
- 4.2.2.2.4.3 Working with citizen volunteers willing to educate others about the program; and
- 4.2.2.2.4.4 Storm drain marking stenciling and tagging, volunteer monitoring or stream/beach clean-up activities.
- 4.2.2.2.5 Who is responsible for the overall management and implementation of your storm water public involvement/participation program and, if different, who is responsible for each of the BMPs identified for this program.
- 4.2.2.2.6 How you will evaluate the success of this minimum measure, including how you selected the measurable goal for each minimum measure.

4.2.3 Illicit Discharge Detection and Elimination

- 4.2.3.1 *Permit requirement.* You must:
- 4.2.3.1.1 Develop, implement and enforce a program to detect and eliminate illicit discharges (as defined in South Carolina Water Pollution Control Permits Regulation 61-9 122.26(b)(2)) into your SMS4;
- 4.2.3.1.2 Develop, if not already completed, a storm sewer system map, showing the location of all outfalls and the names and location of all waters of the State that receive discharges from those outfalls. Unless your SWMP addresses implementation on a watershed basis, this map must be completed no later than three years after your written certificate of coverage is granted. If your SWMP is implemented on a watershed basis, the outfall map for each watershed area identified in your SWMP must be completed during the implementation period for that watershed. Maps submitted to the Department should not exceed a "D" size, 24 inches by 36 inches, and the scale of the maps should be at least 1 inch equals 1,000 feet but not more than 1 inch equals 2,000 feet. Electronic maps, in a format suitable to the Department, may be submitted in lieu of the size D maps.

- 4.2.3.1.3 To the extent allowable under State, Tribal or local law, effectively prohibit, through ordinance, or other regulatory mechanism, non-storm water discharges into your storm sewer system and implement appropriate enforcement procedures and actions;
- 4.2.3.1.4 Develop and implement a plan to detect and address non-storm water discharges, including illegal dumping, to your system;
- 4.2.3.1.5 Inform public employees, businesses, and the general public of hazards associated with illegal discharges and improper disposal of waste; and
- 4.2.3.1.6 Address the following categories of non-storm water discharges or flows (i.e., illicit discharges) only if you identify them as significant contributors of pollutants to your SMS4: water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration (as defined at 40 CFR §35.2005(20)), uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, and street wash water (discharges or flows from fire fighting activities are excluded from the effective prohibition against non-storm water and need only be addressed where they are identified as significant sources of pollutants to waters of the State).
- 4.2.3.1.7 You may also develop a list of other similar occasional incidental non-storm water discharges (e.g. non-commercial or charity car washes, etc.) that will not be addressed as illicit discharges. These non-storm water discharges must not be reasonably expected (based on information available to the permittees) to be significant sources of pollutants to the SMS4, because of either the nature of the discharges or conditions you have established for allowing these discharges to your SMS4 (e.g., a charity car wash with appropriate controls on frequency, proximity to sensitive water bodies, BMPs on the wash water, etc.). You must document in your SWMP any local controls or conditions placed on the discharges. You must include a provision prohibiting any individual non-storm water discharge that is determined to be contributing significant amounts of pollutants to your SMS4.
- 4.2.3.2 *Decision process.* You must document your decision process for the development of a storm water illicit discharge detection and elimination program. Such documentation may be included in your permit application, your SWMP, or your annual report submitted pursuant to Section 5 of this permit. If this information is not included in your permit application, your SWMP, or your annual report submitted pursuant to Section 5 of this permit, you must develop a rationale statement that addresses your overall illicit discharge detection and elimination program and the individual BMPs, measurable goals, and responsible persons for your program. The rationale statement must include the following information, at a minimum:
- 4.2.3.2.1 How you will develop a storm sewer map showing the location of all outfalls and the names and location of all receiving waters. Describe the sources of information you used for the maps, and how you plan to verify the outfall locations with field surveys. If already completed, describe how you developed this map. Also, you must submit an updated map

with each annual report unless there are no changes to the map that was previously submitted. When there have been no changes to the map, your annual report must state this. Maps submitted to the Department should not exceed a “D” size, 24 inches by 36 inches and the scale of the maps should be at least 1 inch equals 1,000 feet but not more than 1 inch equals 2,000 feet. Electronic maps, in a format suitable to the Department, may be submitted in lieu of the size D maps.

- 4.2.3.2.2 The mechanism (ordinance or other regulatory mechanism) you will use to effectively prohibit illicit discharges into the SMS4 and why you chose that mechanism. If you need to develop this mechanism, describe your plan and a schedule to do so. If your ordinance or regulatory mechanism is already developed, include a copy of the relevant sections with your program.
- 4.2.3.2.3 Your plan to ensure through appropriate enforcement procedures and actions that your illicit discharge ordinance (or other regulatory mechanism) is implemented.
- 4.2.3.2.4 Your plan to detect and address illicit discharges to your system, including discharges from illegal dumping and spills. Your plan must include, to the extent practicable, dry weather field screening for non-storm water flows and field tests of chemical parameters you selected as indicators of discharge sources. Your plan must also address on-site sewage disposal systems that flow into your storm drainage system. Your description must address the following, at a minimum:
 - 4.2.3.2.4.1 Procedures for locating priority areas which includes areas with higher likelihood of illicit connections (e.g., areas with older sanitary sewer lines, for example) or ambient sampling to locate impacted reaches.
 - 4.2.3.2.4.2 Procedures for tracing the source of an illicit discharge, including the specific techniques you will use to detect the location of the source.
 - 4.2.3.2.4.3 Procedures for removing the source of the illicit discharge.
 - 4.2.3.2.4.4 Procedures for program evaluation and assessment.
- 4.2.3.2.5 How you plan to inform public employees, businesses, and the general public of hazards associated with illegal discharges and improper disposal of waste. Include in your description how this plan will coordinate with your public education minimum measure and your pollution prevention/good housekeeping minimum measure programs.
- 4.2.3.2.6 Who is responsible for overall management and implementation of your storm water illicit discharge detection and elimination program and, if different, who is responsible for each of the BMPs identified for this program.
- 4.2.3.2.7 How you will evaluate the success of this minimum measure, including how you selected the measurable goals for each of the BMPs.

4.2.4 Construction Site Storm Water Runoff Control

4.2.4.1 *Permit requirement.* Within eighteen months from the effective date of this permit, you must develop, implement, and enforce a program to reduce pollutants in any storm water runoff to your regulated SMS4 from construction activities that result in a land disturbance of greater than or equal to one acre. Reduction of pollutants in storm water discharges from construction activity disturbing less than one acre must be included in your program if that construction activity is part of a larger common plan of development or sale that would disturb one acre or more. Your program must include the development and implementation of, at a minimum:

- 4.2.4.1.1 An ordinance or other regulatory mechanism to require erosion and sediment controls, as well as sanctions to ensure compliance, to the extent allowable under State, Tribal, or local law;
 - 4.2.4.1.2 Requirements for construction site operators to implement appropriate erosion and sediment control BMPs;
 - 4.2.4.1.3 Requirements for construction site operators to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality;
 - 4.2.4.1.4 Procedures for site plan review, which incorporate consideration of potential water quality impacts;
 - 4.2.4.1.5 Procedures for receipt and consideration of information submitted by the public; and
 - 4.2.4.1.6 Procedures for site inspection and enforcement of control measures.
- 4.2.4.2 *Decision process.* You must document your decision process for the development of a construction site storm water control program. Such documentation may be included in your permit application, your SWMP, or your annual report submitted pursuant to Section 5 of this permit. If this information is not included in your permit application, your SWMP, or your annual report submitted pursuant to Section 5 of this permit, you must develop a rationale statement that addresses your overall construction site storm water control program and the individual BMPs, measurable goals, and responsible persons for your program. The rationale statement must include the following information, at a minimum:
- 4.2.4.2.1 The mechanism (ordinance or other regulatory mechanism) you will use to require erosion and sediment controls at construction sites and why you chose that mechanism. If you need to develop this mechanism, describe your plan and a schedule to do so. If your ordinance or regulatory mechanism is already developed, include a copy of the relevant sections with your SWMP description.
 - 4.2.4.2.2 Your plan to ensure compliance with your erosion and sediment control regulatory mechanism, including the sanctions and enforcement mechanisms you will use to ensure compliance. Describe your procedures for when you will use certain sanctions. Possible

sanctions include non-monetary penalties (such as stop work orders), fines, bonding requirements, and/or permit denials for non-compliance.

- 4.2.4.2.3 Your requirements for construction site operators to implement appropriate erosion and sediment control BMPs and control waste at construction sites that may cause adverse impacts to water quality. Such waste includes discarded building materials, concrete truck washouts, chemicals, litter, and sanitary waste.
- 4.2.4.2.4 Your procedures for plan review, including the review of pre-construction site plans, which incorporate consideration of potential water quality impacts. For construction projects that disturb 25 acres or more and discharge the pollutant or pollutants of concern to a water on the South Carolina 303(d) List of Impaired Waters, the Stormwater Pollution Prevention Plans prepared by applicants for construction sites that you review must contain a written quantitative and qualitative assessment showing that the BMPs selected will control the construction and post construction stormwater discharges so that the stormwater discharges will not cause or contribute to a violation of water quality standards.

A copy of the most current 303(d) List of Impaired Waters can be obtained from:

Water Quality Division
Bureau of Water
SC DHEC
2600 Bull Street
Columbia, SC 29201

or it can be downloaded at the following DHEC WEB site:

www.scdhec.gov/water/html/tmdl.html

- 4.2.4.2.5 Your procedures for receipt and consideration of information submitted by the public. Consider coordinating this requirement with your public education program.
 - 4.2.4.2.6 Your procedures for site inspection and enforcement of control measures, including how you will prioritize sites for inspection.
 - 4.2.4.2.7 Who is responsible for overall management and implementation of your construction site storm water control program and, if different, who is responsible for each of the BMPs identified for this program.
 - 4.2.4.2.8 Describe how you will evaluate the success of this minimum measure, including how you selected the measurable goals for each of the BMPs.
- 4.2.4.3 For SMS4 which submitted an application before the effective date of this general permit, you must implement your local construction site storm water runoff control program in your entire regulated SMS4 area within eighteen months of the effective date of this permit.

4.2.5 Post-Construction Storm Water Management in New Development and Redevelopment

4.2.5.1 *Permit requirement.* You must:

4.2.5.1.1 Within eighteen months from the effective date of this permit, develop, implement, and enforce a program to address storm water runoff from new development and redevelopment projects that disturb greater than or equal to one acre, including projects less than one acre that are part of a larger common plan of development or sale, that discharge into your regulated SMS4. Your program must ensure that controls that would prevent or minimize water quality impacts are in place;

4.2.5.1.2 Develop and implement strategies which include a combination of structural and/or non-structural BMPs appropriate for your community; and

4.2.5.1.3 Use an ordinance or other regulatory mechanism to address post-construction runoff from new development and redevelopment projects to the extent allowable under State, Tribal or local law (see also Section 4.2.4.2.4); and

4.2.5.1.4 Ensure adequate long-term operation and maintenance of BMPs.

4.2.5.2 *Decision process.* You must document your decision process for the development of a post-construction SWMP. Such documentation may be included in your permit application, your SWMP, or your annual report submitted pursuant to Section 5 of this permit. If this information is not included in your permit application, your SWMP, or your annual report submitted pursuant to Section 5 of this permit, you must develop a rationale statement that addresses both your overall post-construction SWMP and the individual BMPs, measurable goals, and responsible persons for your program. The rationale statement must include the following information, at a minimum:

4.2.5.2.1 Your program to address storm water runoff from new development and redevelopment projects. Include in this description any specific priority areas for this program.

4.2.5.2.2 How your program will be specifically tailored for your local community, minimize water quality impacts, and attempt to maintain pre-development runoff conditions.

4.2.5.2.3 Any non-structural BMPs in your program, including, as appropriate:

4.2.5.2.3.1 Policies and ordinances that provide requirements and standards to direct growth to identified areas, protect sensitive areas such as wetlands and riparian areas, maintain and/or increase open space (including a dedicated funding source for open space acquisition), provide buffers along sensitive water bodies, minimize impervious surfaces, and minimize disturbance of soils and vegetation.

4.2.5.2.3.2 Policies or ordinances that encourage infill development in higher density urban areas, and areas with existing storm sewer infrastructure;

- 4.2.5.2.3.3 Education programs for developers and the public about project designs that minimize water quality impacts; and
- 4.2.5.2.3.4 Other measures such as: minimization of the percentage of impervious area after development, use of measures to minimize directly connected impervious areas, and source control measures often thought as good housekeeping, preventive maintenance and spill prevention.
- 4.2.5.2.4 Any structural BMPs in your program, including, as appropriate:
 - 4.2.5.2.4.1 Storage practices such as wet ponds, and extended-detention outlet structures;
 - 4.2.5.2.4.2 Filtration practices such as grassed swales, bioretention cells, sand filters and filter strips; and,
 - 4.2.5.2.4.3 Infiltration practices such as infiltration basins and infiltration trenches.
- 4.2.5.2.5 What are the mechanisms (ordinance or other regulatory mechanisms) you will use to address post-construction runoff from new developments and redevelopments and why did you choose that mechanism. If you need to develop a mechanism, describe your plan and a schedule to do so. If your ordinance or regulatory mechanism is already developed, include a copy of the relevant sections with your program.
- 4.2.5.2.6 How you will ensure the long-term operation and maintenance (O&M) of your selected BMPs. Options to help ensure that future O&M responsibilities are clearly identified include an agreement between you and another party such as the post-development landowners or regional authorities.
- 4.2.5.2.7 Who is responsible for overall management and implementation of your post-construction SWMP and, if different, who is responsible for each of the BMPs identified for this program.
- 4.2.5.2.8 How you will evaluate the success of this minimum measure.
- 4.2.5.3 For SMS4s who submitted an application before the effective date of this general permit, you must implement your local post construction storm water management program in your entire regulated SMS4 area within eighteen months of the effective date of this permit.

4.2.6 Pollution Prevention/Good Housekeeping for Municipal Operations

- 4.2.6.1 *Permit requirement.* You must:
 - 4.2.6.1.1 Develop and implement an operation and maintenance program that includes a training component and has the ultimate goal of preventing or reducing pollutant runoff from municipal operations as an integral part of the SWMP; and

- 4.2.6.1.2 Using training materials that are available from SCDHEC, EPA, or other organizations, include in your program employee training to prevent and reduce storm water pollution from activities such as park and open space maintenance, fleet and building maintenance, new construction and land disturbances, and storm water system maintenance.
- 4.2.6.2 *Decision process.* You must document your decision process for the development of a pollution prevention/good housekeeping program for municipal operations. Such documentation may be included in your permit application, your SWMP, or your annual report submitted pursuant to Section 5 of this permit. If this information is not included in your permit application, your SWMP, or your annual report submitted pursuant to Section 5 of this permit, you must develop a rationale statement that addresses your overall pollution prevention/good housekeeping program and the individual BMPs, measurable goals, and responsible persons for your program. The rationale statement must include the following information, at a minimum:
- 4.2.6.2.1 Your operation and maintenance program to prevent or reduce pollutant runoff from your municipal operations. Your program must specifically list the municipal operations that are impacted by this operation and maintenance program. You must also include a list of industrial facilities you own or operate that are subject to SCDHEC NPDES General Permit for Storm Water Discharges Associated with Industrial Activity (SCR000000) or individual NPDES permits for discharges of storm water associated with industrial activity that ultimately discharge to your SMS4. Include the SCDHEC permit number or a copy of the Industrial NOI form for each facility.
- 4.2.6.2.2 Any government employee training program you will use to prevent and reduce storm water pollution from activities such as park and open space maintenance, fleet and building maintenance, new construction and land disturbances, and storm water system maintenance. Describe any existing, available materials you plan to use. Describe how this training program will be coordinated with the outreach programs developed for the public information minimum measure and the illicit discharge minimum measure.
- 4.2.6.2.3 Your program description must specifically address the following areas:
- 4.2.6.2.3.1 Maintenance activities, maintenance schedules, and long-term inspection procedures for controls to reduce floatables and other pollutants to your SMS4.
- 4.2.6.2.3.2 Controls for reducing or eliminating the discharge of pollutants from streets, roads, highways, municipal parking lots, maintenance and storage yards, waste transfer stations, recycling collection centers, fleet or maintenance shops with outdoor storage areas, salt/sand storage locations, and snow disposal areas you operate.
- 4.2.6.2.3.3 Procedures for the proper disposal of waste removed from your SMS4 and your municipal operations, including materials such as dredge spoil, accumulated sediments, floatables, and other debris.

- 4.2.6.2.3.4 Procedures to ensure that new flood management projects are assessed for impacts on water quality and existing projects are assessed for incorporation of additional water quality protection devices or practices.
- 4.2.6.2.4 Who is responsible for overall management and implementation of your pollution prevention/good housekeeping program and, if different, who is responsible for each of the BMPs identified for this program.
- 4.2.6.2.5 How you will evaluate the success of this minimum measure, including how you selected the measurable goals for each of the BMPs.

4.3 Reserved

4.4 Sharing Responsibility.

Implementation of one or more of the minimum measures may be shared with another entity, or the entity may fully take over the measure. You may rely on another entity only if:

- 4.4.1 The other entity in fact, implements the control measure.
- 4.4.2 The particular control measure, or component of that measure, is at least as stringent as the corresponding permit requirement.
- 4.4.3 The other entity agrees to implement the control measure on your behalf. Written acceptance of this obligation is expected. This obligation must be maintained as part of the description of your SWMP. If the other entity agrees to report on the minimum measure, you must supply the other entity with the reporting requirements contained in Section 5.3 of this permit. If the other entity fails to implement the control measure on your behalf, then you remain liable for any discharges due to that failure to implement.

4.5 Reviewing and Updating Storm Water Management Programs (SWMPs)

- 4.5.1 *SWMP Review:* You must do an annual review of your SWMP in conjunction with preparation of the annual report required under Section 5.3
- 4.5.2 *SWMP Update:* You may change your SWMP during the life of the permit in accordance with the following procedures:
 - 4.5.2.1 Changes adding (but not subtracting or replacing) components, controls, or requirements to the SWMP may be made at any time upon written notification to the Department.
 - 4.5.2.2 Changes replacing an ineffective or unfeasible BMP specifically identified in the SWMP with an alternate BMP may be requested at any time. Unless denied by the Department, changes proposed in accordance with the criteria below shall be deemed approved and may be implemented 60 days from submittal of the request. If request is denied, the Department will send you a written response giving a reason for the decision. Your modification requests must include the following:
 - 4.5.2.2.1 An analysis of why the BMP is ineffective or infeasible (including cost prohibitive),
 - 4.5.2.2.2 Expectations on the effectiveness of the replacement BMP, and
 - 4.5.2.2.3 An analysis of why the replacement BMP is expected to achieve the goals of the BMP to be replaced.
 - 4.5.2.3 Change requests or notifications must be made in writing and signed in accordance with Section 122.22 of SC Regulation 61-9 (see Appendix B of this permit).
- 4.5.3 *SWMP Updates Required by the Department:* The Department may require changes to the SWMP as needed to:
 - 4.5.3.1 Address documented impacts on receiving water quality caused, or contributed to, by discharges from the SMS4;
 - 4.5.3.2 Include more stringent requirements necessary to comply with new Federal statutory or regulatory requirements; or
 - 4.5.3.3 Include such other conditions deemed necessary by the Department to comply with the goals and requirements of the Clean Water Act.
 - 4.5.3.4 Changes requested by the Department must be made in writing, set forth the time schedule for you to develop the changes, and offer you the opportunity to propose alternative program changes to meet the objective of the requested modification. All changes required by the Department will be made in accordance with South Carolina Water Pollution Control Permits Regulation 61-9 124.5, 122.62, or as appropriate 122.63.

- 4.5.4 *Transfer of Operational Authority, or Responsibility for SWMP Implementation:* You must implement the SWMP on all new areas added to your portion of the SMS4 (or for which you become responsible for implementation of storm water quality controls) as expeditiously as practicable, but not later than one year from addition of the new areas. Implementation may be accomplished in a phased manner to allow additional time for controls that cannot be implemented immediately.
- 4.5.4.1 Within 90 days of a transfer of operational authority, or responsibility for SWMP implementation, you must have a plan for implementing your SWMP on all affected areas. The plan may include schedules for implementation. Information on all new annexed areas and any resulting updates required to the SWMP must be included in the annual report.
- 4.5.4.2 Only those portions of the SWMP specifically required as permit conditions shall be subject to the modification requirements of South Carolina Water Pollution Control Permits Regulation 61-9.124.5. Addition of components, controls, or requirements by the permittee(s) and replacement of an ineffective or infeasible BMP implementing a required component of the SWMP with an alternate BMP expected to achieve the goals of the original BMP shall be considered minor changes to the SWMP and not modifications to the permit.

5 Monitoring, Record keeping, and Reporting

5.1 Monitoring

- 5.1.1 You must evaluate program compliance, the appropriateness of identified BMPs, and progress toward achieving identified measurable goals. If you discharge to a water body for which a TMDL has been established, you may have additional monitoring requirements under Section 3.1.3.6.
- 5.1.2 When you conduct monitoring at your permitted SMS4, you are required to comply with the following:
- 5.1.2.1 *Representative monitoring.* Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
- 5.1.2.2 *Test Procedures.* Monitoring results must be conducted according to test procedures approved under 40 CFR part 136.
- 5.1.3 Records of monitoring information shall include:
- 5.1.3.1 The date, exact place, and time of sampling or measurements;
- 5.1.3.2 The names(s) of the individual(s) who performed the sampling or measurements;
- 5.1.3.3 The date(s) analyses were performed;
- 5.1.3.4 The names of the individuals who performed the analyses;
- 5.1.3.5 The analytical techniques or methods used; and

5.1.3.6 The results of such analyses.

5.1.4 *Discharge Monitoring Report.* Monitoring results must be reported on a Discharge Monitoring Report (DMR)

5.2 Record Keeping

5.2.1 You must retain records of all monitoring information, including, all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, copies of Discharge Monitoring Reports (DMRs), a copy of the NPDES permit, and records of all data used to complete the application (NOI) for this permit, for a period of at least three years from the date of the sample, measurement, report or application, or for the term of this permit, whichever is longer. This period may be extended by request of the Department at any time.

5.2.2 You must submit your records to the Department when specifically asked to do so. You must retain a description of the SWMP required by this permit (including a copy of the permit language) at a location accessible to the Department. You must make your records, including the notice of intent (NOI) or application and the description of the SWMP, available to the public if requested to do so in writing.

5.3 Reporting

You must submit your first annual report to the Department fourteen months after the effective date of the written certificate of coverage. The following annual reports shall be submitted every twelve months from the scheduled date of the first submittal. All annual reports shall be sent to:

SCDHEC Bureau of Water
Storm Water Compliance Manager
2600 Bull Street
Columbia, SC 29201-1708

The report must include:

5.3.1 The status of your compliance with permit conditions, an assessment of the appropriateness of the identified best management practices (this may be satisfied by updating your Decision Process under Subsections 4.2.1.2, 4.2.2.2, 4.2.3.2, 4.2.4.2, 4.2.5.2, and 4.2.6.2), progress towards achieving the statutory goal of reducing the discharge of pollutants to the MEP, and the measurable goals for each of the minimum control measures;

5.3.2 Results of information collected and analyzed, if any, during the reporting period, including monitoring data used to assess the success of the program at reducing the discharge of pollutants to the MEP;

- 5.3.3 A summary of the storm water activities you plan to undertake during the next reporting cycle (including an implementation schedule);
- 5.3.4 Proposed changes to your SWMP, including changes to any BMPs or any identified measurable goals that apply to the program elements; and
- 5.3.5 Notice that you are relying on another entity to satisfy some of your permit obligations (if applicable).

6 Standard Permit Conditions

South Carolina regulations require that the Standard Conditions provisioned at §122.41 of SC Regulation 61-9 be applied to all NPDES permits. You are required to comply with those Standard Conditions, details of which are provided in Appendix B, that are applicable to SMS4 storm water discharges.

7 Definitions

All definitions contained in Section 502 of the Act and South Carolina Water Pollution Control Permits Regulation 61-9 122 shall apply to this permit and are incorporated herein by reference. For convenience, simplified explanations of some regulatory/statutory definitions have been provided, but in the event of a conflict, the definition found in the Statute or Regulation takes precedence.

Best Management Practices (BMPs) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

Control Measure, as used in this permit, refers to any BMP or other method used to prevent or reduce the discharge of pollutants to waters of the United States.

CWA or The Act means the Clean Water Act (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972) Pub.L. 92-500, as amended Pub. L. 95-217, Pub. L. 95-576, Pub. L. 96-483 and Pub. L. 97-117, 33 U.S.C. 1251 et.seq.

Department means the South Carolina Department of Health and Environmental Control.

Discharge, when used without a qualifier, refers to “discharge of a pollutant” as defined at South Carolina Water Pollution Control Permits Regulation 61-9 122.2.

Illicit Connection means any man-made conveyance connecting an illicit discharge directly to a small municipal separate storm sewer.

Illicit Discharge is defined at South Carolina Water Pollution Control Permits Regulation 61-9 122.26(b)(2) and refers to any discharge to a small municipal separate storm sewer that is not entirely composed of storm water, except discharges authorized under an NPDES permit (other than the NPDES permit for discharges from the SMS4) and discharges resulting from fire fighting activities.

Indian Country, as defined in 18 USC 1151, means:

- (a) All land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation;
- (b) All dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state; and,
- (c) All Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same. This definition includes all land held in trust for an Indian tribe.

MEP is an abbreviation for "Maximum Extent Practicable," the technology-based discharge standard for Municipal Separate Storm Sewer Systems to reduce pollutants in storm water discharges that was established by CWA §402(p).

MS4 is an abbreviation for "Municipal Separate Storm Sewer System" and is used to refer to either a Large, Medium, or Small Municipal Separate Storm Sewer System (e.g. "the Columbia MS4"). The term is used to refer to either the system operated by a single entity or a group of systems within an area that are operated by multiple entities (e.g., the Greenville County MS4 includes MS4s operated by the city of Greenville, the South Carolina Department of Transportation, Greenville County, and others).

Municipal Separate Storm Sewer is defined at South Carolina Water Pollution Control Permits Regulation 61-9 122.26(b)(8) and means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains): (i) Owned or operated by a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the United States; (ii) Designed or used for collecting or conveying storm water; (iii) Which is not a combined sewer; and (iv) Which is not part of a Publicly Owned Treatment Works (POTW) as defined at South Carolina Water Pollution Control Permits Regulation 61-9 122.2.

NOI is an abbreviation for "Notice of Intent" to be covered by this permit and is the mechanism used to request coverage under a general permit.

Outfall means a point source as defined by section 122.2 of SC Regulation 61-9 at the point where a municipal separate storm sewer discharges to waters of the State and does not include open conveyances connecting two municipal separate storm sewers, or pipes, tunnels or other conveyances which connect segments of the same stream or other waters of the State and are used to convey waters of the State.

Regulated Small Municipal Separate Storm Sewer System is defined by Section 122.32 South Carolina Regulation 61-9 and means: (1) a small municipal storm sewer system that is located in an urbanized area as

determined by the latest Decennial Census by the Bureau of Census (If your small MS4 is not located entirely within an urbanized area, only the portion that is within the urbanized area is regulated.); or (2) you are designated by the Department, including where the designation is pursuant to Sections 122.35(b)(3) or (b)(4) of SC Regulation 61-9, or is based upon a petition under Section 122.26(f) of the SC Regulation 61-9. In accordance with Section 122.32(c) of SC Regulation 61-9, the Department may waive the requirements otherwise applicable to you if you meet the criteria of Sections 122.32(d) or (e) of SC Regulation 61-9.

Small Municipal Separate Storm Sewer System (SMS4) is defined at South Carolina Water Pollution Control Permits Regulation 61-9 122.26(b)(16) and refers to all small separate storm sewer systems that are owned or operated by the United States, a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the United States, but is not defined as “large” or “medium” municipal separate storm sewer system. This term includes systems similar to separate storm sewer systems in municipalities, such as systems at military bases, large hospital or prison complexes, and highways and other thoroughfares. The term does not include separate storm sewers in very discrete areas, such as individual buildings.

Storm Water is defined at South Carolina Water Pollution Control Permits Regulation 61-9 122.26(b)(13) and means storm water runoff, snowmelt runoff, and surface runoff and drainage.

Storm Water Management Program (SWMP) refers to a comprehensive storm water management program to manage the quality of storm water discharged from the small municipal separate storm sewer system.

Waters of South Carolina, or Waters of the State means lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic Ocean within the territorial limits of the State, and all other bodies of surface or underground water, natural or artificial, public or private, inland or coastal, fresh or salt, which are wholly or partially within or bordering the State or within its jurisdiction and all waters of the United States within the political boundaries of the State of South Carolina. Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of CWA are not waters of the South Carolina. This exclusion applies only to manmade bodies of water which neither were originally created in waters of South Carolina (such as disposal areas in wetlands) nor resulted from the impoundment of waters of South Carolina.

Waters of the United States, or Waters of the U.S. means:

- (a) All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
- (b) All interstate waters, including interstate "wetlands";
- (c) All other waters such as interstate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, wet meadows, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:
 - (1) Which are or could be used by interstate or foreign travelers for recreational or other purposes;
 - (2) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
 - (3) Which are used or could be used for industrial purposes by industries in interstate commerce;

- (d) All impoundments of waters otherwise defined as waters of South Carolina under this definition;
- (e) Tributaries of waters identified in paragraphs (a) through (d) of this definition;
- (f) The territorial sea; and
- (g) Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (a) through (f) of this definition.

“You” and “Your” as used in this permit is intended to refer to the permittee, the operator, or the discharger as the context indicates and that party’s responsibilities (e.g., the city, the country, the flood control district, the U.S. Air Force, etc.).

Appendix A - Regulated Small MS4s in SC

Reference list (not inclusive of all SMS4 owners or operators subject to SC Water Pollution Control Permits Regulation 61-9 122.32 – 122.36) of Governmental Entities Located Fully or Partially Within an Urbanized Area in the State of South Carolina according to the 2000 Census of Population and Housing, U.S. Bureau of the Census. Military bases, large hospitals, prison complexes, universities and colleges, sewer districts, and highway departments that own or operate an SMS4 within an urbanized area are also subject to the SC Water Pollution Control Permits Regulation 61-9 122.26(b)(16) and 122.32(a).

URBANIZED AREA (UA)	MUNICIPALITY	POPULATION (IN UA)	DENSITY
Anderson, including Centerville, Homeland Park & Northlake CDPs	Anderson	25,510	1,845
	Anderson County ¹	(40,636) + 9,958	
	Belton [*]	4,290	1,150
Augusta – SC, including Belvedere, Clearwater, Gloverville & Murphys Estates CDPs	Aiken	24,621	1,559
	Aiken County	40,423	
	Burnettown	2,331	558
	Edgefield County	246	
	North Augusta ²	17,381 + 5	1,003
Charleston – N. Charleston, including Ladson, a CDP	Berkeley County	43,233	
	Charleston	93,382	847
	Charleston County	45,755	
	Dorchester County	40,132	
	Folly Beach	1,760	113
	Goose Creek	28,708	903
	Hanahan	12,708	1,211
	Isle of Palms	4,508	826
	Lincolnton	904	807
	Mount Pleasant	45,582	959
	North Charleston ³	74,336 + 3,379	1,274
	Sullivan's Island	1,911	574
	Summerville ⁴	940 + 20 + 26,782	1,806
Charlotte – SC, including Lake Wylie & Riverview CDPs	Fort Mill	7,533	1,649
	Tega Cay [*]	4,044	1,287
	York County ⁵	(12,552) + 20,663	
Columbia, including Dentsville, Lake Murray, Oak Grove, Red Bank, Seven Oaks, St. Andrews & Woodfield CDPs	Arcadia Lakes	882	1,316
	Cayce	11,817	1,076
	Elgin [*]	801	814
	Forest Acres	10,558	2,133
	Irmo ⁶	4,071 + 6,968	2,719
	Kershaw County [*]	1,678	
	Lexington [*]	9,769	1,709
	Lexington County	93,069	
	Pine Ridge	1,195	428
	South Congaree	2,252	697
	Springdale	2,877	712
	West Columbia	13,064	2,064
Florence	Darlington County	3,067	
	Florence	30,126	1,704
	Florence County	33,346	

Greenville, including Arial, Berea, City View, Dunean, Gantt, Golden Grove, Judson, Parker, Piedmont, Powdersville, Sans Souci, Taylors, Wade Hampton & Welcome CDPs	Anderson County ¹	(9,958) + 40,636	
	Easley *	17,698	1,659
	Greenville *	55,789	2,140
	Greer ^{7*}	(10,966 + 4,867) + 399	1,057
	Liberty *	2,697	705
	Pickens *	2,970	1,240
	Pickens County	17,454	
	Spartanburg County ⁸	(7,415) + 331 + 90,254	
	Travelers Rest *	3,693	932
Mauldin – Simpsonville, including Five Forks, a CDP	Fountain Inn ^{9*}	4,612 + 1,178	1,096
	Greer ^{7*}	(399) + 10,966 + 4,867	1,057
	Laurens County *	386	
	Mauldin *	14,978	1,764
	Simpsonville *	14,352	2,300
	Spartanburg County ⁸	(331) + 7,415 + 90,254	
Myrtle Beach, including Forestbrook, Garden City, Little River, Murrells Inlet, Red Hill & Socastee CDPs	Atlantic Beach *	351	2,340
	Briarcliffe Acres *	470	712
	Conway *	11,506	884
	Georgetown County	5,233	
	Horry County	68,302	
	Myrtle Beach	22,696	1,351
	North Myrtle Beach *	10,001	808
	Surfside Beach	4,425	2,269
Rock Hill, including India Hook, Lesslie & Newport CDPs	Rock Hill	49,344	1,599
	York County ⁵	(20,663) + 12,552	
Spartanburg, including Boiling Springs, Inman Mills, Roebuck, Saxon, Southern Shops, Startex & Valley Falls CDPs	Cherokee County *	363	
	Cowpens	2,074	978
	Duncan *	2,764	824
	Inman *	1,884	2,117
	Lyman *	2,391	653
	Spartanburg	39,673	2,064
	Spartanburg County ⁸	(90,254)	
	Wellford *	1,948	1,005
Sumter, including Cane Savannah, Cherryvale, East Sumter, Lakewood, Millwood, Mulberry, Oakland, South Sumter & Stateburg CDPs	Sumter	38,579	1,478
	Sumter County	25,561	

() Population for counties in two, or more UAs.

(*) SMS4 owners or operators of Governmental Entities Located Fully or Partially Within an Urbanized Area in the State of South Carolina in addition to those listed on page 68831 of Appendix 6 of the preamble of the Federal Register, Vol. 64, N°. 235, Wednesday, December 8, 1999, according to the 2000 Census of Population and Housing, U.S. Bureau of the Census. Military bases, large hospitals, prison complexes, universities and colleges, sewer districts, and highway departments that own or operate an SMS4 within an Urbanized Area are also subject to SC Water Pollution Control Permits Regulation 61-9 122.32 – 122.36

(¹) In the Anderson UA, 40,636 people & in the Greenville UA, 9,958 people

- (²) In the Augusta – Richmond County, GA – SC UA, 17,381 people in Aiken County & 5 in Edgefield County
- (³) In the Charleston – North Charleston UA, 74,336 people in Charleston County & 3,379 in Dorchester County
- (⁴) In the Charleston – North Charleston UA, 940 people in Berkeley County, 20 in Charleston County & 26,782 in Dorchester County
- (⁵) In the Charlotte, NC – SC UA, 12,552 people & in the Rock Hill UA, 20,663 people
- (⁶) In the Columbia UA, first number is the population in the Lexington County portion of the municipality, while the second corresponds to the Richland County portion
- (⁷) In the Greenville UA, 10,966 people in Greenville County & 4,867 in Spartanburg County. In the Mauldin - Simpsonville UA, 399 people in Spartanburg County
- (⁸) In the Greenville UA, 7,415 people, in the Mauldin – Simpsonville UA, 331 people & in the Spartanburg UA, 90,254 people
- (⁹) In the Mauldin – Simpsonville UA, 4,612 people in Greenville County & 1,178 in Laurens County

Appendix B – Sections 122.41 and 122.22 of SC Regulation 61-9

Section 122.41

122.41. Conditions applicable to all permits. The following conditions apply to all NPDES permits. Additional conditions applicable to NPDES permits are in section 122.42. All conditions applicable to NPDES permit shall be incorporated into the permits either expressly or by reference. If incorporated by reference, a specific citation to the federal regulations (or the corresponding approved State regulations) must be given in the permit.

(a) **Duty to comply.** The permittee must comply with all conditions of the permit. Any permit noncompliance constitutes a violation of the Clean Water Act and the Pollution Control Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application. The Department's approval of wastewater facility Plans and Specifications does not relieve the permittee of responsibility to meet permit limits.

(1) The permittee shall comply with effluent standards or prohibitions established under section 307(a) of the Clean Water Act for toxic pollutants and with standards for sewage sludge use or disposal established under section 405(d) of the CWA within the time provided in the regulations that establish these standards or prohibitions or standards for sewage sludge use or disposal, even if the permit has not yet been modified to incorporate the requirement.

(2) Failure to comply with permit conditions or the provisions of this regulation may subject the permittee to civil penalties under S.C. Code Section 48-1-330 or criminal sanctions under S.C. Code Section 48-1-320. Sanctions for violations of the Federal Clean Water Act may be imposed in accordance with the provisions of 40 CFR Part 122.41(a)(2) and (3).

(3) A person who violates any provision of this regulation, a term, condition or schedule of compliance contained within a valid NPDES permit, or the State law is subject to the actions defined in the State law.

(b) **Duty to reapply.** If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit. (But see 122.4(g)(2)).

(c) **Need to halt or reduce activity not a defense.** It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

(d) **Duty to mitigate.** The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

(e) **(1) Proper operation and maintenance.** The permittee shall at all times properly operate and maintain in good working order and operate as efficiently as possible all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the terms and conditions of this permit. Proper operation and maintenance includes effective performance based on

design facility removals, adequate funding, adequate operator staffing and training and also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit.

(2) The permittee shall develop and maintain at the facility a complete Operations and Maintenance Manual for the waste treatment facilities and/or land application system. The manual shall be made available for on-site review during normal working hours. The manual shall contain operation and maintenance instructions for all equipment and appurtenances associated with the waste treatment facilities and land application system. The manual shall contain a general description of: the treatment process (es), the operational procedures to meet the requirements of (e)(1) above, and the corrective action to be taken should operating difficulties be encountered.

(3)(i) Except as stated in (ii) below, the permittee shall provide for the performance of daily treatment facility inspections by a certified operator of the appropriate grade as defined in the permit for the facility. The inspections shall include, but should not necessarily be limited to, areas which require visual observation to determine efficient operation and for which immediate corrective measures can be taken using the O & M manual as a guide. All inspections shall be recorded and shall include the date, time, and name of the person making the inspection, corrective measures taken, and routine equipment maintenance, repair, or replacement performed. The permittee shall maintain all records of inspections at the permitted facility as required by the permit, and the records shall be made available for on-site review during normal working hours.

(ii) The Department may make exceptions to operating requirements, if stated in the permit, as follows:

(A) Attendance by the certified operator of the appropriate grade ("the operator") is normally required only on days when treatment or discharge occurs.

(B) For performance of daily inspections, permits may allow a reduced grade of operator for limited time periods under specific circumstances when justified by the permittee in a staffing plan and approved by the Department.

(C) Reduced inspection frequency, but in no case less than weekly, may be suitable when specified in the permit, if there is complete telemetry of operating data and there is either a simple treatment system with a low potential for toxicity but requiring pumps or other electrical functions or the ability to stop the discharge for an appropriate period when necessary.

(D) In other circumstances where the permittee demonstrates the capability to evaluate the facility in an alternative manner equivalent to the inspection requirements in subparagraph 3(i).

(E) Any exceptions allowed under (A), (B), (C), and (D) above may be subject to compliance with the permit conditions.

(4) (i) Purpose. This regulation establishes rules for governing the operation and maintenance of wastewater sewer systems, including gravity or pressure interceptor sewers. It is the purpose of

this rule to establish standards for the management of sewer systems to prevent and/or minimize system failures that would lead to public health or environmental impacts.

(ii) **Authority and applicability.** Under Section 48-1-30 of the Code of Laws of South Carolina (1976 as amended), the Department is authorized to adopt such rules and regulations as may be necessary to implement the Pollution Control Act. This regulation applies to all sewer systems that have been or would be subject to a DHEC construction permit under Regulation 61-67 and whose owner owns or operates the wastewater treatment system to which the sewer discharges and which discharges under NPDES. Nothing in this regulation supersedes a more stringent requirement that may be imposed by sewer system owners that manage wastewater from satellite systems. This regulation (122.41(e)(4)) is effective when published in the State Register.

(iii) **General requirements.** The requirements to properly operate and maintain sewer systems are the responsibility of the system owner. **General Standards.** The sewer system owner must:

(A) Properly manage, operate, and maintain at all times all parts of its sewer system(s), to include maintaining contractual operation agreements to provide services, if appropriate;

(B) Provide adequate capacity to convey base flows and peak flows for all parts of the sewer system or, if capital improvements are necessary to meet this standard, develop a schedule of short and long term improvements;

(C) Take all reasonable steps to stop and mitigate the impact of releases of wastewater to the environment; and

(D) Notify the Department within 30 days of a proposed change in ownership of a sewer system.

(iv) [Reserved.]

(f) **Permit actions.** This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.

(g) **Property rights.** This permit does not convey any property rights of any sort, or any exclusive privilege.

(h) **Duty to provide information.** The permittee shall furnish to the Department, within a reasonable time, any information which the Department may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The permittee shall also furnish to the Department upon request, copies of records required to be kept by this permit.

(i) **Inspection and entry.** The permittee shall allow the Department, or an authorized representative (including an authorized contractor acting as a representative of the Department), upon presentation of credentials and other documents as may be required by law, to:

(1) Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

(2) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

(3) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and

(4) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act and Pollution Control Act, any substances or parameters at any location.

(j) Monitoring and records.

(1) (i) (A) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

(B) Samples shall be reasonably distributed in time, while maintaining representative sampling.

(C) No analysis, which is otherwise valid, shall be terminated for the purpose of preventing the analysis from showing a permit or water quality violation.

(ii) Flow Measurements.

(A) Where primary flow meters are required, appropriate flow measurement devices and methods consistent with accepted scientific practices shall be present and used to ensure the accuracy and reliability of measurements of the volume of monitored discharges. The devices shall be installed, calibrated, and maintained to ensure that the accuracy of the measurements is consistent with the accepted capability of that type of device. Devices selected shall be capable of measuring flows with a maximum deviation of not greater than 10 percent from the true discharge rates throughout the range of expected discharge volumes. The primary flow device, where required, must be accessible to the use of a continuous flow recorder.

(B) Where permits require an estimate of flow, the permittee shall maintain at the permitted facility a record of the method(s) used in "estimating" the discharge flow (e.g., pump curves, production charts, water use records) for the outfall(s) designated on limits pages to monitor flow by an estimate.

(C) Records of any necessary calibrations must be kept.

(iii) The Department may designate a single, particular day of the month on which any group of parameters listed in the permit must be sampled. When this requirement is imposed in a permit, the Department may waive or alter compliance with the permit requirement for a specific sampling event for extenuating circumstances.

(iv) The Department may require that a permittee monitor parameters in the stream receiving his permitted discharge as necessary to evaluate the need for and to establish limits and conditions and to insure compliance with water quality standards (i.e., R.61-68).

(2) Except for records of monitoring information required by this permit related to the permittee's sewage sludge use and disposal activities, which shall be retained for a period of at least five years (or longer as required by R.61-9.503 or R.61-9.504); the permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report or application. This period may be extended by request of the Department at any time.

(3) Records of monitoring information shall include:

- (i) The date, exact place, and time of sampling or measurements;
- (ii) The individual(s) who performed the sampling or measurements;
- (iii) The date(s) analyses were performed;
- (iv) The individual(s) who performed the analyses;
- (v) The analytical techniques or methods used; and
- (vi) The results of such analyses.

(4) Analyses for required monitoring must be conducted according to test procedures approved under 40 CFR Part 136 unless other test procedures have been specified in the permit or, in the case of sludge use or disposal, unless otherwise specified in R.61-9.503 or R.61-9.504.

(5) The PCA provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$25,000 or by imprisonment for not more than 2 years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment provided by the Clean Water Act is also by imprisonment of not more than 4 years.

(k) Signatory requirement.

(1) All applications, reports, or information submitted to the Department shall be signed and certified (See section 122.22).

(2) The PCA provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or non-compliance shall, upon conviction, be

punished by a fine of not more than \$25,000 per violation, or by imprisonment for not more than two years per violation, or by both.

(I) Reporting requirements.

(1) Planned changes. The permittee shall give notice to the Department as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:

(i) The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source in section 122.29(b); or

(ii) The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under section 122.42(a)(1).

(iii) The alteration or addition results in a significant change in the permittee's sewage sludge or industrial sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan (included in the NPDES permit directly or by reference);

(2) Anticipated noncompliance. The permittee shall give advance notice to the Department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

(3) Transfers. This permit is not transferable to any person except after notice to the Department. The Department may require modification or revocation and reissuance of the permit to change the name of permittee and incorporate such other requirements as may be necessary under the Pollution Control Act and the Clean Water Act. (See section 122.61; in some cases, modification or revocation and reissuance is mandatory.)

(4) Monitoring reports. Monitoring results shall be reported at the intervals specified in the permit.

(i) Monitoring results must be reported on a Discharge Monitoring Report (DMR) or forms provided or specified by the Department for reporting results of monitoring of sludge use or disposal practices.

(ii) If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 CFR Part 136 or, in the case of sludge use or disposal, approved under 40 CFR Part 136 unless otherwise specified in R.61-9.503 or R.61-9.504, or as specified in the permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the Department.

(iii) Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Department in the permit.

(5) Compliance schedules. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.

(6) Twenty-four hour reporting.

(i) The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

(ii) The following shall be included as information which must be reported within 24 hours under this paragraph.

(A) Any unanticipated bypass which exceeds any effluent limitation in the permit. (See section 122.44(g)).

(B) Any upset which exceeds any effluent limitation in the permit.

(C) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Department in the permit to be reported within 24 hours (See section 122.44(g)).

(iii) The Department may waive the written report on a case-by-case basis for reports under paragraph (1)(6)(i) of this section if the oral report has been received within 24 hours.

(7) Other noncompliance. The permittee shall report all instances of noncompliance not reported under paragraphs (1)(4), (5), and (6) of this section, at the time monitoring reports are submitted. The reports shall contain the information listed in paragraph (1)(6) of this section.

(8) Other information. Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Department, it shall promptly submit such facts or information.

(m) Bypass.

(1) Definitions.

(i) “Bypass” means the intentional diversion of waste streams from any portion of a treatment facility.

(ii) “Severe property damage” means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(2) Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraph (m)(3) and (m)(4) of this section.

(3) Notice.

(i) Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible, at least ten days before the date of the bypass.

(ii) Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in paragraph (l)(6) of this section (24-hour notice).

(4) Prohibition of bypass

(i) Bypass is prohibited, and the Department may take enforcement action against a permittee for bypass, unless:

(A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(C) The permittee submitted notices as required under paragraph (m)(3) of this section.

(ii) The Department may approve an anticipated bypass, after considering its adverse effects, if the Department determines that it will meet the three conditions listed above in paragraph (m)(4)(i) of this section.

(n) Upset.

(1) Definition. “Upset” means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the permittee. A upset does not include noncompliance to the extent caused by

operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(2) Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology based permit effluent limitations if the requirements of paragraph (n)(3) of this section are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

(3) Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

- (i) An upset occurred and that the permittee can identify the cause(s) of the upset;
- (ii) The permitted facility was at the time being properly operated; and
- (iii) The permittee submitted notice of the upset as required in paragraph (l)(6)(ii)(B) of this section (24 hour notice).
- (iv) The permittee complied with any remedial measures required under paragraph (d) of this section.

(4) Burden of proof. In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

(o) Misrepresentation of Information.

(1) Any person making application for a NPDES discharge permit or filing any record, report, or other document pursuant to a regulation of the Department, shall certify that all information contained in such document is true. All application facts certified to by the applicant shall be considered valid conditions of the permit issued pursuant to the application.

(2) Any person who knowingly makes any false statement, representation, or certification in any application, record, report, or other documents filed with the Department pursuant to the State law, and the rules and regulations pursuant to that law, shall be deemed to have violated a permit condition and shall be subject to the penalties provided for pursuant to 48-1-320 or 48-1-330.

Section 122.22

122.22. Signatories to permit applications and reports.

(a) Applications. All permit applications shall be signed as follows:

(1) For a corporation: by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means:

(i) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or

(ii) The manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2) For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or

(3) For a municipality, State, Federal, or other public agency or public facility: By either a principal executive officer, mayor, or other duly authorized employee or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes:

(i) The chief executive officer of the agency, or

(ii) A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrator, Region IV, EPA).

(b) All reports required by permits, and other information requested by the Department, shall be signed by a person described in paragraph (a) of this section, or by a duly authorized representative of that person. A person is a duly authorized representative only if:

(1) The authorization is made in writing by a person described in paragraph (a) of this section;

(2) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.) and,

(3) The written authorization is submitted to the Department.

(c) Changes to authorization. If an authorization under paragraph (b) of this section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of paragraph (b) of this section must be submitted to the Department prior to or together with any reports, information, or applications to be signed by an authorized representative.

(d) Certification. Any person signing a document under paragraph (a) or (b) of this section shall make the following certification: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."